

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>JASON LAVANCE STEWART,</b>	:	
<b>Plaintiff,</b>	:	
<b>v.</b>	:	<b>CIVIL ACTION</b>
	:	<b>NO. 06-3460</b>
<b>BERKS COUNTY PRISONS WARDEN GEORGE</b>	:	
<b>WAGNER, et al.,</b>	:	
<b>Defendants.</b>	:	
	:	

## **ORDER**

AND NOW, this 30th day of January, 2012, upon consideration of the Motions to Dismiss filed by Defendant Prison Warden George Wagner [Doc. No. 10] and Defendant BCP Primary Physician Dr. Mary Beth Jackson [Doc. No. 18], and Plaintiff's Response in Opposition thereto, and for the reasons stated in the Memorandum Opinion filed this day, it is hereby **ORDERED** that the Motions to Dismiss are **GRANTED in part and DENIED in part** as follows:

1. The Motions to Dismiss are **DENIED** as to Plaintiff's medical indifference claims.
2. The Motions to Dismiss are **GRANTED** as to the following, which are hereby **DISMISSED with prejudice**: (1) Plaintiff's claims under the Sixth Amendment to the United States Constitution; (2) Plaintiff's claims under the equal protection clause of the Fourteenth Amendment to the United States Constitution; and (3) Plaintiff's state law negligence claims against Warden Wagner.
3. Plaintiff's state law negligence claims against Dr. Mary Beth Jackson are **DISMISSED without prejudice**; Plaintiff may file a motion to reassert his medical malpractice claims **on or before March 1, 2012**, if Plaintiff attaches to the motion the certificates of merit required by Pa. R. Civ. P. 1042.3; such a motion should include supplemental briefing on the viability of the claims under

the applicable statute of limitations.

4. Defendants are hereby directed to answer the Complaint **on or before March 15, 2012.**

It is so **ORDERED.**

**BY THE COURT:**

/s/ **Cynthia M. Rufe**

---

**HON. CYNTHIA M. RUGE**